

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|----------------------------|---|----------------------------------|
| ALONZO T. JOHNSON, |) | |
| |) | Civil Action No. 08 - 1240 |
| Petitioner, |) | |
| |) | District Judge Joy Flowers Conti |
| v. |) | |
| |) | |
| GERALD ROZUM; THE ATTORNEY |) | |
| GENERAL FOR THE STATE OF |) | |
| PENNSYLVANIA, |) | |
| |) | |
| Respondents. |) | |

MEMORANDUM ORDER

On September 8, 2008, the above captioned case was initiated by the filing of a Motion to Proceed In Forma Pauperis accompanied by a Petition for Writ of Habeas Corpus and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation filed on October 14, 2008 (doc. no. 6) recommended that the Petition for Writ of Habeas Corpus be dismissed without prejudice because Petitioner currently was pursuing state court remedies. Petitioner was served with the Report and Recommendation and advised that he was allowed until October 31, 2008 to file written objections to the Report and Recommendation. No Objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 17th day of November, 2008;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 6) of Magistrate Judge Lenihan dated October 14, 2008, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

Alonzo T. Johnson, FX - 2361
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510-005